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SIPDIS

SENSITIVE

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SUBJECT: ARMENIA: 2004 - 2005 ANTI-TRAFFICKING STRATEGY

REF: YEREVAN 01339

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11. (SBU) SUMMARY. While the formation of the Government's Interagency Commission to Address Issues related to Human Trafficking was encouraging, lack of a Commission Head for several months last year significantly slowed down the Government's response to TIP. As reported reftel, the Commission believes that coordination has been the biggest overriding problem. With a Commission Head now in place, the Commission has recently taken concrete steps to ensure better coordination through the Commission and has requested that their mandate be expanded and further defined to improve their ability to coordinate all Government action in this important area, as well as to improve implementation of the National Plan of Action. International and non-governmental organizations in Armenia have continued to take concrete steps to better inform the Armenian population of the trafficking phenomenon and assist victims. The Armenian Governmental Commission has readily participated in these endeavors, and we have seen increasingly strong collaboration between government and service-providing NGOs over the last several months on specific cases, although there still needs to be better overall coordination. We are hopeful that the Government of Armenia will begin its own initiatives toward combating this abhorrent phenomenon. The GOAM Commission reports that although coordination with a new UNDP Anti-TIP Program funded by the Norwegian Government has been poor to date, they believe that they are close to reconciling this issue. We are hopeful that the GOAM will in fact be able to improve cooperation with the UNDP program in an effort to decrease overlap between that program and USG-funded programs currently being implemented. Paras 2-4 update the 2003-2004 Anti-TIP Strategy Recommendations to the Government of Armenia and establish new goals for 2004-2005. END SUMMARY.

12. (SBU) Recommended steps to improve prevention that the Government of Armenia should take to combat trafficking in persons in Armenia include:

GOAL: Establish consistent translations of key terminology and definitions from the Palermo Convention, including trafficking in persons and migrant smuggling. The resulting terminology and definitions should be used consistently throughout all relevant public awareness, legislation and other documentation.

UPDATE: The GOAM Commission has made several amendments to anti-TIP legislation with an aim to clarify and better define terminology, which will greatly contribute to this goal. The National Assembly will consider changes in the next few months.

GOAL: Approval of the National Plan of Action (NPA) by the GOAM and beginning of implementation.

UPDATE: ACCOMPLISHED. The GOAM should now focus on improved implementation of the NPA. The GOAM Commission agreed in a meeting last week to utilize the USG-funded anti-TIP website for Armenia (www.antitip.am) to publicize GOAM initiatives to improve transparency.

GOAL: Allocate appropriate government staff and resources to track implementation of the NPA.

UPDATE: ACCOMPLISHED. The GOAM allocated the equivalent of USD 11, 000 to the Commission to implement anti-TIP initiatives. The Commission believes that this sum is merely symbolic, but attributes this to the fact that the request was made after the national budget was approved. They intend to make a more substantial request for the coming year's budget. We urge the GOAM to allocate the required resources.

GOAL: Include trafficking in persons in the Poverty Reduction Strategy (PRSP), especially concerning vulnerable groups, including women, children and refugees. For example, attention to this issue within the job creation component of the PRSP with an aim to reduce the number of

vulnerable women can positively impact trafficking prevention.

UPDATE: The Human Rights Desk of the Ministry of Foreign Affairs has been working actively with the World Bank to ensure inclusion of TIP in the PRSP. We should continue to track the PRSP document for additions.

GOAL: Improve the incorporation of issues related to children, especially children in institutions and from vulnerable families, in all aspects of trafficking prevention and relevant action plans.

13. (SBU) We recommend addressing trafficking in persons in the broader context of the UN Transnational Organized Crime Convention to ensure attention to international standards and practices and harmonization within the region. In addition, this will ensure that not only is trafficking criminalized, but also that key criminal code amendments are made to ensure effective implementation of legislation put in place, which are also needed to effectively combat transnational crime in general. It is important to focus, however, not only on the Criminal and Criminal Procedure Codes, but also on the Labor Code, social welfare/family legislation and anti-corruption legislation, enforcement and implementation to ensure a comprehensive approach to this complex issue. In the case of issues related to trafficking in minors, Armenia has not taken significant steps to ratify several key international agreements to protect the rights of children, namely the Hague Convention; ILO Convention 182 and the Optional Protocols to the Child Rights Convention. We strongly believe that Armenia should act swiftly on these issues.

We support UNHCR in its assertion that seeking asylum is a universally recognized right. As UNHCR points out, many refugees, because of their desperate situation, may have no other option to reach safety in asylum countries than engaging the services of smugglers, some falling into the hands of traffickers. UNHCR urges that access to asylum be kept open in strict compliance with the "Saving Clause" contained in both the Trafficking and Smuggling Protocols. In particular, UNHCR strongly recommends that the "Saving Clause" be reflected in a specific provision of the RA Criminal Code. Furthermore, inclusion into the same Code of an article that exempts asylum-seekers from being punished for the fact of having utilized the services of a smuggler in order to escape from feared persecution is recommended. This would reflect the obligation of non-penalization set forth in Article 31 (1) of the 1951 Convention, in addition to being consistent with Article 5 of the Smuggling Protocol. Finally, those persons who effectively facilitate smuggling for humanitarian reasons, assisting asylum-seekers to flee from the country where they fear persecution into Armenia without any financial gain, should not be subject to prosecution under the Criminal Code. Given the nexus between smuggling and trafficking and the fact that refugees and smuggled migrants are a high-risk group for trafficking, we strongly support UNHCR's endeavors in this area but do not link progress on this area to tier status for Armenia.

The following steps are recommended to improve the Government of Armenia's ability to prosecute trafficking related cases:

GOAL: Legal Analysis of gaps in current legislation. The Government of Armenia's support and substantive collaboration to the USG-funded initiative by OSCE in this area are essential.

UPDATE: OSCE's international expert and a team of 3 national experts are currently working on the legislative gap analysis. The first draft package of amendments to the Criminal Procedure Code was submitted to the OSCE Office in Yerevan; simultaneously, the package was sent for comment to relevant agencies/members of the Armenian Government Working Group on Criminal Procedure Code Amendments and then forward to the OSCE expert. In July 2004, it is expected that OSCE will convene an expert-level meeting in Yerevan. The meeting will provide a forum for the relevant state authorities, NGOs and bar associations to discuss the proposed amendments with the international expert. In July 2004, Phase 1 of the project (focus on procedural safeguards of victim/witness protection) will be essentially completed (although follow-up with the National Assembly will continue beyond July 2004 into fall 2004) and Phase 2 (focus on non-procedural safeguards/assessment of prerequisites for creation of a witness protection program - including recommendations for a separate Law on Witness Protection) will commence.

GOAL: Amendment of Criminal Code Article 132 and/or ratification of a Trafficking in Persons Law.

UPDATE: The GOAM Commission has drafted amendments for consideration by the National Assembly. Relevant GOAM

agencies are working with the OSCE Legislative Strengthening Program, funded by the USG. We are hopeful that this cooperation will continue and produce visible results in 2004.

GOAL: Specific legislation or amendments to existing legislation not linked to cooperation in criminal investigation or prosecution, addressing both victim protection and witness protection.

UPDATE: Phase I of the OSCE Legislative Strengthening Program is expected completed in July 2004. Phase II will begin shortly thereafter and will focus on this issue. Active collaboration by the relevant GOAM agencies is essential.

GOAL: We strongly recommend specific legislation or amendments to existing legislation that comply with the "Saving Clause" in the Trafficking and Smuggling Protocols, but we do not link this to tier status.

GOAL: Ratification of Optional Protocols to UN Convention on the Rights of the Child and ratification of ILO Convention 182.

UPDATE: GOAM experienced seriously delays in this process. Recently, there has been improved impetus within the GOAM to accomplish these goals. We are hopeful that the GOAM will finalize ratification in 2004.

GOAL: Ratification of the Hague Convention followed by the development of procedures and bilateral agreements to monitor inter-country adoptions. While we do not propose a specific timeline for ratification, we encourage the Government of Armenia to take steps toward this goal over the next year.

UPDATE: Ratification is currently a contentious issue within the GOAM. The overwhelming opinion seems to be that there are several steps that should be taken to address these issue through creation of internal legislation and procedures, especially related to adoption. The GOAM would then seek expert assistance to identify gaps and priorities, and only then take the steps necessary for ratification. We believe it is important to continue to encourage the GOAM to address this important issue.

GOAL: Training for law enforcement, advocates and the judiciary to sensitize them to the issue of trafficking in persons and educate them on relevant changes and additions to national legislation. We recommend a particular emphasis on Border Guards and Consular Officials overseas.

UPDATE: The National Police began providing some training for law enforcement. The USG, through IOM, supports an initiative for the Consular Section of the MFA and Consular Officers abroad. GOAM-led initiatives in this area should be greatly expanded and be incorporated into standard local training programs.

GOAL: Begin discussions on more regular cooperation with destination countries, notably the UAE and Germany. Expand contacts in other potential destination countries, such as Greece, Cyprus, Turkey, Russia.

UPDATE: On a practical law enforcement level, cooperation has steadily increased. We encourage the GOAM to continue to increase cooperation in this area and take steps to formalize bilateral cooperation. We further encourage the GOAM to promote bilateral and regional cooperation beyond law enforcement.

14. (SBU) The National Plan of Action and Governmental Commission's Concept Paper have been ratified and disseminated to international organizations and NGOs. We applaud this level of transparency with local and international partners. There is a need for further research to address issues related to the scope of trafficking, especially related to child adoptions, orphanages and Internats (boarding schools). Further research will help to establish potential and actual victim profiles, thereby assisting the Government of Armenia and the NGO and donor communities to better focus prevention and victim assistance and protection programs. The USG has provided funding to 2 organizations to conduct such research. We are extremely concerned by the Commission's intention to conduct separate research, which will be much smaller in scope. Varying results may provide an ideal excuse for the GOAM to attempt to minimize the problem and discount the findings of the USG-funded study. Future steps to improve protection of victims include:

GOAL: Research to identify trafficking trends and victim profiles.

UPDATE: The State Department has provided funding to two

local NGOs to accomplish this task during 2004. The Government of Armenia's support to this initiative will be critical. We appreciate the GOAM's support to date to this initiative in providing a representative from the Governmental Commission to participate in the selection board to review program proposals. We are hopeful that the Government of Armenia will also promote adequate access and transparency for the NGO conducting research to the relevant government institutions and agencies. Given the GOAM's scarce resources to address TIP, we are hopeful that the GOAM will cooperate closely with this initiative, rather than duplicate this effort by going forth with its plans for a study.

GOAL: Establishment of hotlines for both prevention and returnee assistance.

UPDATE: The State Department currently supports a program (through IOM) by a local NGO to assist victims that includes a hotline. More than 100 people from all over Armenia have contacted the hotline since its inception. We understand that UNDP, in cooperation with UMCOR, intends to begin operating a hotline. We are hopeful that efforts will be closely coordinated given that multiple hotlines with different procedures could result in confusion among at-risk/potential users. Furthermore, better cooperation between implementers would also benefit data collection on victims.

GOAL: Establishment of safehavens and reintegration centers for returnees, which will provide legal, medical and psychological assistance, and also socio-economic reintegration and appropriate monitoring of the process.

UPDATE: The State Department currently supports a program (through IOM) by a local NGO to assist victims that includes safehavens and legal, medical and psychological assistance to returnees. Law enforcement has referred suspected victims to this shelter-a sign that collaboration between NGOs and Armenian Government agencies is improving. We understand that UNDP, in cooperation with UMCOR, intends to begin a similar program. Without sufficient data on the trafficking phenomenon to include the type of victim (men, women, children) and the type of trafficking they are subjected to, victim assistance programs should be created that will allow for flexibility. We are hopeful that the upcoming USG-funded research will provide much of the information required to better understand Armenian victim profiles.

15. COMMENT. We have commended the GOAM on continued Tier 2 status but also made it clear that more has to be done. We have repeatedly sent the message that actual GOAM buy-in or ownership of the problem is critical-- TIP is not a donor issue, but an issue for Armenia with global tie-ins. Now that the Head of the Commission is in place and the Government has approved the National Plan of Action, the focus should be on actual implementation of the NPA and better coordination of the interagency process. END COMMENT.

ORDWAY